

KENTUCKY DEPARTMENT OF EDUCATION

STAFF NOTE

Action/Discussion Item:

Appeal of nonresident student contract ruling for school year 2004-2005: Breathitt County School District vs. Jackson Independent School District (**Referenced letters, Comparative information and Briefs for each district under separate cover**)

Applicable Statute(s) or Regulation(s):

KRS 157.350, KRS 160.010, KRS 160.020, 702 KAR 7:125

Action Question:

Should the Kentucky Board of Education (KBE) uphold, modify or reverse the ruling of the Commissioner of Education to allow funding for two-hundred forty-nine (249) students who are residents of the Breathitt County School District to be counted in average daily attendance (ADA) for Jackson Independent for the purpose of generating state funds for the 2004-2005 school year?

History/Background:

Existing Policy. KRS 157.350 establishes eligibility for school districts to participate in the fund to Support Education Excellence in Kentucky (SEEK) program. Section 4 of this statute states, in part, that to receive SEEK funds the district shall include “no nonresident pupils in its average daily attendance except as follows: (a) Pupils listed under a written agreement with the district of the pupils’ legal residence.” This section further states, “if an agreement cannot be reached, either board may appeal to the chief state school officer for settlement of the agreement...either board may appeal the chief state school officer’s decision to the Kentucky Board of Education.” 702 KAR 7:125 required that the written agreement between districts for the 2004-2005 school year be submitted to the Kentucky Department of Education (KDE) by November 1, 2004.

The Jackson Independent and Breathitt County School Districts have been unable to reach nonresident contract agreements since the 2002 school year. For both the 2003 and 2004 school years an appeal was filed with the Commissioner. The Commissioner’s 2004 nonresident agreement decision was appealed to the Kentucky Board of Education. On June 3, 2004, the Kentucky Board of Education modified the Commissioner’s decision to include an additional sixty-one (61) students allowed to attend Jackson Independent, which brought the total number of students covered by the agreement to three hundred and fourteen (314). The Board’s decision applied to the 2003-2004 school year only.

On November 4, 2004, the Jackson Independent Board of Education formally appealed to the Commissioner of Education for a decision on nonresident student contracts between the Jackson

Independent Board of Education and Breathitt County Board of Education for the 2004-2005 school year.

On December 16, 2004, the Commissioner of Education determined that the Jackson Independent School District could include those students in 2004-2005 ADA who reside in the Breathitt County School District who are enrolled during the 2004-2005 school year and were included in the 2003-2004 appeal resolution as determined by the Kentucky Board of Education on June 3, 2004. The Commissioner also determined that SEEK funding would transfer to Jackson Independent School District for siblings of the listed students who have not previously been enrolled in school but who became enrolled for the 2004-2005 school year as reported in the appeal.

On January 17, 2005, Jackson Independent School District through legal counsel formally appealed to the Kentucky Board of Education the decision made by the Commissioner of Education concerning the Jackson Independent School District's nonresident contract with the Breathitt County School District.

On January 24, 2005, the two districts were notified that additional information/documentation could be provided to the KBE until the close of business on February 28, 2005.

The letters referenced above, the comparative information and the district briefs are all under separate cover.

Options for the KBE to consider in this matter include:

1. Uphold the ruling of the Commissioner of Education with regard to the nonresident student contract between Jackson Independent and Breathitt County.
2. Modify or reverse the ruling of the Commissioner of Education with regard to the nonresident student contract between the Jackson Independent and Breathitt County School Districts.

Staff Recommendation(s) and Rationale(s):

Staff recommends that the KBE uphold the ruling of the Commissioner of Education with regard to the nonresident student contract between Jackson Independent and Breathitt County School Districts. The decision is based on the best interests of the student as required by statute.

Impact on Getting to Proficiency

The goals of the Kentucky Board of Education for reaching proficiency by 2014 are: "Goal 1: High Student Performance", "Goal 2: High Quality Teaching and Administration", and "Goal 3: Strong and Supportive Environment for Each School and Every Student." A decision concerning nonresident contracts will allow administrators, teachers, parents and students to focus on high quality education. A decision will also inform the community of the standards to be followed for nonresident students so they can also focus on and support the education of all students.

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Deputy Commissioner

Commissioner of Education

Date:

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